

## NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

### NOTICE OF EXEMPT RULEMAKING

#### TITLE 9. HEALTH SERVICES

#### CHAPTER 10. DEPARTMENT OF HEALTH SERVICES HEALTH CARE INSTITUTIONS: LICENSING

[R08-336]

#### PREAMBLE

- 1. Sections affected**  
R9-10-122
- Rulemaking Action**  
Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statutes: A.R.S. § 36-136(F)  
Implementing statute: A.R.S. § 36-405 and Laws 2008, Ch. 291, § 12  
Statute or session law authorizing the exemption: Laws 2008, Ch. 291, § 12
- 3. The effective date of the rules:**  
September 26, 2008
- 4. A list of all previous notices appearing in the *Register* addressing the exempt rule:**  
Not applicable
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Mary Wiley, Assistant Director
Address:	Department of Health Services Division of Licensing Services 150 N. 18th Ave., Suite 510 Phoenix, AZ 85007
Telephone:	(602) 364-3064
Fax:	(602) 364-4808
E-mail:	wileym@azdhs.gov
or	
Name:	Kathleen Phillips, Administrative Counsel and Rules Administrator
Address:	Department of Health Services Office of Administrative Counsel and Rules 1740 W. Adams St., Suite 200 Phoenix, AZ 85007
Telephone:	(602) 542-1264
Fax:	(602) 364-1150
E-mail:	phillik@azdhs.gov
- 6. An explanation of the rule, including the agency's reasons for the rule, including the statutory citation to the exemption from regular rulemaking procedures:**  
The purpose of this rulemaking is to implement Laws 2008, Ch. 291, § 12, effective September 26, 2008, specifically provisions in the law that allow the Department to raise fees in fiscal year 2008-2009 for services the Department pro-

Notices of Exempt Rulemaking

vides. A.R.S. § 36-405 requires a person to obtain a health care institution license before a person establishes, conducts, or maintains a health care institution. Pursuant to A.R.S. §§ 36-424 and 36-425, the Department provides licensing and monitoring services to health care institutions.

Laws 2008, Ch. 291, § 12, provides that the additional revenue generated by the fee increase shall not exceed \$600,000 for fiscal year 2008-2009. The Department is increasing the licensed capacity fee charged to a health care institution from \$10 times the health care institution's licensed capacity to \$25 times the health care institution's licensed capacity. "Licensed capacity" is defined in A.R.S. § 36-401(A)(30) as "the total number of persons for whom the health care institution is authorized by the department to provide services as required pursuant to this Chapter if the person is expected to stay in the health care institution for more than twenty-four hours." The Department estimates that the total licensed capacity for health care institutions expected to be licensed or to renew their license from the effective date of these rules until June 30, 2009, the end of fiscal year 2008-2009, is 46,575. By collecting \$15 more for each licensed capacity bed, the Department expects to generate approximately \$698,625 more in fees.

Because the estimated total license capacity is based on current licensed capacity numbers that usually fluctuate, the Department set the increase at \$15 to ensure at least \$600,000 is generated from the fee increase and appropriated to the Department pursuant to Laws 2008, Ch. 291, § 12, to offset the \$600,000 decrease in the Department's general fund appropriation for fiscal year 2008-2009.

7. **A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
None
8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
9. **The summary of the economic, small business, and consumer impact:**  
Not applicable
10. **A description of the changes between the proposed rules, including supplemental notices, and final rules, (if applicable):**  
Not applicable
11. **A summary of the comments made regarding the rule and the agency response to them:**  
Not applicable
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable
13. **Incorporations by reference and their location in the rules:**  
None
14. **Was this rule previously made as an emergency rule? If so, please indicate the *Register* citation:**  
No
15. **The full text of the rules follows:**

TITLE 9. HEALTH SERVICES

CHAPTER 10. DEPARTMENT OF HEALTH SERVICES  
HEALTH CARE INSTITUTIONS: LICENSING

ARTICLE 1. GENERAL

Section  
R9-10-122. Fees

ARTICLE 1. GENERAL

**R9-10-122. Fees**

- A. No change
  1. Fifty dollars for a project with a cost of ~~less than~~ \$100,000 or less;
  2. One hundred dollars for a project with a cost of more than \$100,000 but less than \$500,000; or

**Notices of Exempt Rulemaking**

- 3. One hundred fifty dollars for a project with a cost of \$500,000 or more.
- B.** No change
- C.** No change
  - 1. No change
  - 2. For a facility with a licensed capacity of one to 59 beds, \$100.00, plus the licensed capacity times ~~\$10.00~~ \$25.00;
  - 3. For a facility with a licensed capacity of 60 to 99 beds, \$200.00, plus the licensed capacity times ~~\$10.00~~ \$25.00;
  - 4. For a facility with a licensed capacity of 100 to 149 beds, \$300.00, plus the licensed capacity times ~~\$10.00~~ \$25.00; or
  - 5. For a facility with a licensed capacity of 150 beds or more, \$500.00, plus the licensed capacity times ~~\$10.00~~ \$25.00.
- D.** No change
- E.** No change
- F.** No change